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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,304	12/15/2000	Marc Herrmann	T3264-906758	8446
181	7590	06/16/2005	EXAMINER	
MILES & STOCKBRIDGE PC 1751 PINNACLE DRIVE SUITE 500 MCLEAN, VA 22102-3833			MIRZA, ADNAN M	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/736,304

Applicant(s)

HERRMANN ET AL.

Examiner

Adnan M. Mirza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujino et al (U.S. 5,651,006) and Fisher et al (U.S. 6,571,286).

As per claims 13,33 Fujino disclosed a method scalable monitoring of a computer system comprising a plurality of computer units constituting hardware resources to be monitored forming, a monitored domain (col. 7, lines 1-11), and a manager comprising a central computer system connected to a communication network that allows transfer of information between at least one of the resources and the manager (col. 6, lines 5-18), said resources including memories and having installed therein indicator agents (col. 7, lines 43-53), the method being characterized in that it comprises: - a step for organizing the monitored domain into a plurality of monitored sub domains (d 1, d2) comprising a predetermined maximum number of resources (A1, A2, B 1, 112), - providing a plurality of indicators, said indicators representing an operational status of the resources of a sub domain, specifying the sub domains of the computer system in which each indicator should be deployed, automatically creating and configuring (col. 17, lines 29-51), for each sub domain, an information synthesis node comprising at least one synthesis agent stored in a memory of a resource, providing said resources with indicator agents for evaluating said

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indicators, each indicator agent being uniquely identified by the name of the indicator the indicator agent calculates and by the sub domain in which said indicator agent is installed, for each sub domain, associating each indicator agent with each synthesis agent using the corresponding indicator value, the structure of each synthesis agent being identical to that of an indicator agent, for each sub domain, using indicator agents for calculating and storing indicator values in the memory of at least one resource (col. 13, lines 31-50), synthesizing by each synthesizing agent said stored indicator values to define corresponding indicators (col. 16, lines 61-67),

However Fujino failed to disclose modifying the associations between the synthesis agents and the indicator agents when the predetermined maximum number of resources in a sub domain is reached, in order to accommodate the addition or deletion of indicators so that the monitored domain comprises a new architecture having, in each sub domain, a number of resources lower than the predetermined maximum number of resources.

In the same field of endeavor Fisher et al disclosed the assignment of a resource to a given parameter depends on the parameter assignment classification, i.e., an “allocate” or a “reference” assignment. However, this information is insufficient for determining the appropriate behavior of the configuration tool when a user chooses to assign a value to a given parameter. The required chooses to assign a value to a given parameter. The required behavior is referred to here as the “allocation policy”. Determining which allocation policy to apply in a given situation is determined by a combination of the known parameter assignment classification and the action

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taken by the user (i.e., entering a value or using the right house button to request a list to values from which to select). The following allocation policies that can be used to assign a resource to a parameter that has been selected by the user (col. 10, lines 18-33).

It would have been obvious to one having ordinary skilled in the art at the time of the invention was made to have incorporated the assignment of a resource to a given parameter depends on the parameter assignment classification, i.e., an "allocate" or a "reference" assignment. However, this information is insufficient for determining the appropriate behavior of the configuration tool when a user chooses to assign a value to a given parameter. The required chooses to assign a value to a given parameter. The required behavior is referred to here as the "allocation policy". Determining which allocation policy to apply in a given situation is determined by a combination of the known parameter assignment classification and the action taken by the user (i.e., entering a value or using the right house button to request a list to values from which to select). The following allocation policies that can be used to assign a resource to a parameter that has been selected by the user as taught by Fisher in the method of Fujino to make the network more efficient in terms of utilizing and providing dynamic, coherent management of network resources involving at least one data communication network.

3. As per claims 14,34 Fujino-Fisher disclosed a method for scalable monitoring a of a computer system according to claim 13, characterized in that the "step for Configuring an information synthesis node comprise, for each synthesis agent: step for searching, in a table stored in the memory of a resource (Fisher, col. 6, lines 27-42), for the name of the indicator

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agent or Agents required to calculate the indicator of the synthesis agent (Fujino, col. 16, lines 61-67), and - a step for subscribing the synthesis agent to the indicator agents identified during the search step, said subscription step allowing each synthesis agent to automatically receive, in a corresponding subscription table stored in the storage means of a resource, the new values of the indicators found (Fisher, col. 10, lines 17-37).

4. As per claims 15,35 Fujino-Fisher disclosed wherein the searching comprises: - sending notification by the synthesis agent to a naming service dedicated to storing the associations between a sub domain name, an indicator agent and an indicator, said notification comprising the name of a given sub domain and a given indicator (Fujino, col. 16, lines 61-67).

5. As per claims 16-18,36-38 Fujino-Fisher disclosed wherein the modifying the associations comprises: - a step for installing at least one indicator agent in each new resource added to a sub domain (Fujino, col. 16, lines 49-60), - a step for sending, to the synthesis agents requiring the value of the indicator of the new indicator agent or agents a notification comprising the identification of the new indicator agent or agents. and - a step for subscribing each synthesis agent to the new indicator agent required to calculate the indicator of the synthesis agent (Fujino, col. 16, lines 61-67).

6. As per claims 19-24, 39-42 Fujino-Fisher disclosed wherein the modifying the association comprises: - selecting, for each sub domain, the resources to be deleted (Fisher, col. 10, lines 17-37), - sending, to the synthesis agents using the value of the indicator of the indicator

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agent or agents installed in the selected resource or resources, a notification comprising the identification of the deleted indicator agent or agents, and - un subscribing the synthesis agents from the indicator agents whose indications are contained in the notification (Fujino, col. 9, lines 33-44).

7. As per claims 25-32, 43-45 Fujino-Fisher disclosed a method for scalable monitoring of a computer system according to claim 13, further comprising determining the maximum number of resources per sub domain to minimize the cost of calculating the indicators, or the number of synthesis nodes as low as possible (Fisher, col. 10, lines 18-37).

### *Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

10. The examiner can normally be reached on Monday to Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin Wallace can be reached on (571)-272-6159. The fax for this group is (703)-746-7239.

11. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-746-7239 (For Status Inquiries, Informal or Draft Communications, please label "PROPOSED" or "DRAFT");

(703)-746-7239 (For Official Communications Intended for entry, please mark "EXPEDITED PROCEDURE"),

(703)-746-7238 (For After Final Communications).

12. Any Inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-3900.

Any response to a final action should be mailed to:



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BOX AF

Commissioner of Patents and Trademarks Washington, D.C.20231

Or faxed to:

Hand-delivered responses should be brought to 4<sup>th</sup> Floor Receptionist, Crystal Park II,  
2021 Crystal Drive, Arlington, VA 22202.

*AM*

Adnan Mirza

Examiner



**ZARNI MAUNG**  
**SUPERVISORY PATENT EXAMINER**